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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000730

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SUBJECT: AMBASSADOR AND FM DISCUSS SFA AND SOFA PREPARATION

Classified By: Ambassador Ryan C. Crocker for reasons 1.4 (b) and (d).

Summary

¶1. (C) In a March 3 meeting with Foreign Minister Hoshyar Zebari, Ambassador Ryan Crocker delivered the U.S. concept for diplomatic rollout of the Strategic Framework Agreement (SFA) and the Status of Forces Agreement (SOFA). It was apparent that the Iraqis were thinking of the SFA and SOFA as a single document, but the Ambassador informed them clearly that there would be two separate, parallel tracks. Although the Iraqis preferred to begin negotiations with the SFA first, the Ambassador emphasized the need to pursue both tracks simultaneously. FM Zebari accepted the suggestion that the talks begin on Saturday but warned against distribution of the U.S. draft SOFA to the full delegation before there was an opportunity for the Iraqi side to prepare the ground by demonstrating that the elements were common to SOFAs the U.S. has with other countries.

Diplomatic Rollout of the SFA and SOFA

¶2. (C) Ambassador Crocker, Political-Military Minister-Counselor Marcie Ries, National Security Council Senior Director Brett McGurk, SOFA Negotiator Amb Bob Loftis, FM Zebari, Deputy FM Mohammed Hamoud, and Fareed Yasseen attended the March 3 meeting. The meeting opened with FM Zebari's description of Iranian President Mahmoud Ahmadinejad's recent visit to Iraq (septel).

¶3. (C) Ambassador Crocker explained that we want to move forward with two parallel tracks: the Strategic Framework (SFA) and the Status of Forces Agreement (SOFA). He put the two documents in context and highlighted that in addition to the usual SOFA provisions, the SOFA would need to address 3 areas: authorities for combat operations, detention, and U.S. jurisdiction over certain contractors. Loftis added that these 3 pieces are designed to be limited in duration. The Ambassador clarified that with respect to jurisdiction, the U.S. intends to hold certain contractors accountable under U.S. law for offenses related to their duties.

¶4. (C) McGurk stated that the SFA would resemble the Declaration of Principles (DOP), covering economic, diplomatic, cultural, and security spheres, but would be more concrete than the DOP, and sketch our common vision for a long-term relationship. This document, he explained, would be signed by the Prime Minister and President Bush and endorsed (as with the DOP) by the same signatories to the August 26 Agreement and Speaker Mashadani. The Strategic Partnership Declaration with Afghanistan, signed by President Bush and President Karzai in May 2005, is an example of what this document might look like. McGurk emphasized that we are committed to ensuring that our bilateral relationship affirms Iraqi sovereignty, strengthens the Iraqi government, and

receives broad support from different communities.

15. (C) As an immediate objective, we want to table the draft texts on March 8. Underlining the need to complete agreements this year, Ambassador Crocker stated that both the SFA and the SOFA would be necessary to end UN Chapter VII status.

Iraqi Response - SOFA "Problematic"

16. (C) Zebari confirmed GOI agreement that we want to start talks on March 8. He asked for clarification about whether the SFA and SOFA would be negotiated separately. Told that it was our aim to negotiate the drafts in parallel, Zebari nonetheless counseled that it would be best to start negotiations on the SFA text first. He thought that the 3 exceptional areas of the SOFA would be very problematic - combat, detention, and contractors.

17. (C) Zebari noted that time is scarce. It's already March, and in the past, it has taken the US and Iraq a long time to negotiate simple 1-2 page documents. "The mentality hasn't changed."

Negotiation Team Composition and Other Practical Issues

18. (C) Ambassador Crocker inquired about the negotiation team structure on the Iraqi side. We had heard conflicting information about the roles of the Presidency Council and the PCNS. Zebari affirmed that D/FM Hamoud is the head of the

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GOI negotiation team and that he enjoyed the Prime Minister's confidence. Zebari had in his hand a list of the rest of the Iraqi team, which he said he planned to provide to the Prime Minister the same evening. He clearly preferred to leave the negotiation in the hands of the designated negotiators; it would be too time-consuming to have many layers of coordination within the Iraqi side. He acknowledged, though, that "Everybody wants to have a say."

19. (C) The FM stated that the Iraqi side is ready to begin negotiations. As a practical matter, he noted that both sides must have a fixed number of negotiators. Hamoud asked directly for the number of personnel on the American side. Loftis responded that there were 14 including interpreters on the U.S. SOFA team.

110. (C) Zebari desired a secure place to conduct the negotiations. He expressed concern about Iranian spying on senior Iraqi officials, and he cited examples including himself and Iraqi President Jalal Talabani. Zebari also noted access issues for his negotiation team, getting to and from the Green Zone.

One Agreement or Two? Overarching?

111. (C) Ambassador Crocker restated that we expect to proceed with negotiations on both texts simultaneously. Zebari, Hamoud, and Yasseen pressed for clarification on the relationship between the SFA and the SOFA. They variously asked if the SOFA would be a component of the SFA, if the SFA would be overarching above the SOFA, or if the SOFA would derive from the SFA.

112. (C) Returning to the practical effects of having 2 separate documents, FM Zebari asked if the parallel tracks would require 2 Iraqi negotiation teams. D/FM Hamoud suggested the use of military, economic, cultural, and diplomatic subcommittees, presumably under his authority as

the negotiation team leader. Yasseen cautioned that a corporate body should be aware of both texts.

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Zebari Ponders How to Broach a SOFA With Iraqis
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¶13. (C) Ambassador Crocker stated that we intended to share the drafts by Saturday. FM Zebari responded that it is problematic to start negotiations with the SOFA vice the SFA. He was worried about leaks to parties who would try to undermine an agreement. Zebari expressed the need to keep the SOFA close-hold. He was even hesitant, he said, to table the SOFA draft with his entire negotiation team. He observed that it was necessary first to familiarize Iraqis with the elements which are included in all such agreements, perhaps by showing them SOFA agreements the U.S. has concluded with other countries. (Note: D/FM Hamoud quietly remarked after the formal meeting that he did not want press attention, and would fear for his safety if a media photo spray was permitted for the opening session. End Note.)

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What Model Are We Using?
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¶14. (C) FM Zebari said that it would be helpful to have samples of SOFAs with other nations of Near East Asia. Hamoud said that they have copies of the US SOFAs with Egypt, Kuwait, Japan, and South Korea.

¶15. (C) Yasseen asked if US arrangements with the EU (sic) or NATO would be a point of departure or template. Loftis noted that U.S. agreements with NATO and Japan were made more than 50 years ago, and the US position on SOFAs has evolved. Yasseen acknowledged this point and alluded to the environmental articles in newer SOFAs.

¶16. (C) Comment: This initial engagement produced some predictable responses from the Iraqi side and general discomfort with the most contentious issues in the negotiations (authorities and jurisdiction). Our negotiating strategy is to work methodically and quietly to get key Iraqi players comfortable with these issues and how they might be handled, while keeping our eyes on the calendar and the goal to close the SF and the SOFA by July 1. End Comment.
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